[JOINT COMMITTEE PRINT]

DESCRIPTION OF S. 604 AND S. 579 (TAXPAYERS' BILL OF RIGHTS ACT)

SCHEDULED FOR A HEARING

BEFORE THE

SUBCOMMITTEE ON PRIVATE RETIREMENT PLANS AND OVERSIGHT OF THE INTERNAL REVENUE SERVICE

OF THE

SENATE COMMITTEE ON FINANCE

ON APRIL 10, 1987

PREPARED BY THE STAFF

OF THE

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INTRODUCTION

The Senate Finance Subcommittee on Private Retirement Plans and Oversight of the Internal Revenue Service has scheduled a public hearing on April 10, 1987, on two bills generally relating to the rights of taxpayers in dealing with the Internal Revenue Service (IRS). The bills are S. 604, The Omnibus Taxpayers' Bill of Rights Act (introduced by Senators Pryor, Grassley, and Reid), and S. 579, The Taxpayers' Bill of Rights Act (introduced by Senators Reid, Nickles, and Breaux).

This pamphlet,[1] prepared in connection with the hearing, contains four parts. The first part is a summary of the bills. The second part provides background information on IRS operations. The third part provides a more detailed description of the provisions of both bills, including effective dates. (Because a number of the provisions of both bills are identical, the description is organized topically, rather than by bill; the description notes which bill includes which particular provision.) The fourth part includes a brief discussion and analysis of the issues raised by the bills.

[1] This pamphlet may be cited as follows: Joint Committee on Taxation, *Description of S. 604 and S. 579 (Taxpayers' Bill of Rights Act)* (JCS-9-87), April 9, 1987.

I. SUMMARY

Both S. 604 and S. 579 would: (1) require the IRS to develop and distribute to taxpayers a statement of the rights and obligations of both the taxpayer and the IRS; (2) establish an Office of Inspector General at the Treasury; (3) specify rules and procedures involving taxpayer interviews; (4) require additional General Accounting Office (GAO) oversight of the administration of the internal revenue laws; (5) prohibit consideration of revenue raised in the evaluation of IRS personnel; (6) prohibit tax-related investigations into the beliefs or associations of any individuals or organizations; (7) liberalize levy and seizure procedures; (8) provide for greater administrative and judicial review of jeopardy levies and assessments; (9) authorize (and in certain instances, mandate) that the IRS enter into installment payment agreements with taxpayers; (10) impose limits on class audits based upon a taxpayer's trade, business, or profession; and (11) shift the burden of proof to the Government in all administrative and judicial tax proceedings.

S. 579 would, in addition, allow taxpayers to sue IRS employees for civil rights violations.

S. 604 would make five additional changes to the administration of the internal revenue laws. The bill would: (1) provide that any deficiency in tax, interest, and penalties that results from incorrect written advice given to taxpayers by the IRS may not be collected; (2) authorize the Taxpayer Ombudsman to issue "taxpayer assistance orders" to assist taxpayers who request help; (3) permit taxpayers to appeal liens administratively; (4) preclude IRS levies where the expenses of levy exceed the value of the property levied or the liability to be satisfied; and (5) apply the Regulatory Flexibility Act to the IRS.

II. BACKGROUND

Oversight of IRS operations

The IRS, which is a part of the Department of the Treasury, frequently is the subject of studies to improve its operation. These studies may be initiated by the Secretary of the Treasury, GAO, or a Congressional committee with jurisdiction over IRS funding or administration.

The IRS maintains its own internal audit program, which reviews the processing of returns, the collection of tax revenues, and the enforcement of tax laws. The IRS also maintains an investigations program, which performs background investigations on its employees.

IRS taxpayer services

The IRS conducts a year-round tax information program throughout the country. Assistance ranges from interpreting technical provisions of the tax law and assisting taxpayers in preparing their returns to answering questions on tax account status and furnishing forms requested by taxpayers.

Taxpayer assistance is provided by three principal methods: (1) telephone assistance; (2) assistance to taxpayers who walk into an IRS office; and (3) taxpayer information and education programs, including programs directed at special groups.

The IRS has established a taxpayer complaint handling system, known as the Problem Resolution Program (PRP), in each of its offices. Under this program, there is a Problem Resolution Officer in each office. PRP was established to handle taxpayers' problems and complaints that may not have been promptly or adequately resolved through normal administrative procedures, as well as to handle those problems which taxpayers believe have not received appropriate attention. In addition, PRP is responsible for determining the underlying causes of problems encountered so that corrective action can be taken to prevent their recurrence.

The IRS has also established the office of Taxpayer Ombudsman. The Ombudsman works under the direct supervision of the Deputy Commissioner of Internal Revenue. The responsibilities of the Ombudsman include the administration of PRP and the representation of taxpayers' interests and concerns within the IRS decision-making process. Thus, the Ombudsman is charged with reviewing IRS policies and procedures for possible adverse effects on taxpayers; proposing ideas on tax administration that will benefit taxpayers; and representing taxpayers' views in the design of tax forms and instructions.

Tax liens

Understatement of income, estate, gift, or certain excise tax liability on a tax return (or failure to file a tax return) gives rise to a deficiency. The deficiency is, in the simplest case, the excess of tax due over the tax shown by the taxpayer on the tax return (sec. 6211(a)). If the IRS determines that a deficiency exists (which it generally does only after completion of the audit process), the taxpayer is mailed a notice of a deficiency (by certified or registered mail) at the taxpayer's last known address (sec. 6212). This notice generally includes information on the taxpayer's administrative and judicial appeal rights. Within 90 days (150 days if the taxpayer is outside the United States) after the notice of deficiency is mailed, the taxpayer may petition the Tax Court for a redetermination of the deficiency without prepaying the tax.

The IRS generally may not assess the deficiency and proceed with collection until the period for petitioning the Tax Court expires or, if a petition is filed, until the decision of the Tax Court becomes final (i.e., appeals, if any, are exhausted).[2] On the other hand, some assessments (such as termination assessments and jeopardy assessments authorized under secs. 6851 and 6861) can be made sooner when the taxpayer's actions seem to endanger the ability of the IRS to collect the taxes due. The Code explicitly provides that the taxpayer may obtain rapid review (both administratively and judicially) of these actions (sec. 7429).

After the tax has been assessed, the IRS must give the taxpayer, within 60 days, a notice stating the amount of the unpaid tax and demanding payment (sec. 6303). This notice is left at the dwelling or usual place of business of the taxpayer or mailed to the taxpayer's last known address.

If, more than 10 days after payment has been demanded, the taxpayer has failed to pay, then the amount owed becomes a lien in favor of the United States on all property and rights to property, whether real or personal, belonging to the taxpayer (sec. 6321). Unless removed or released, the lien continues until the tax has been paid or until the lien becomes unenforceable by reason of lapse of time (sec. 6322).[3]

Present law contains specific rules concerning lien priorities and the recordation of liens. There are no administrative procedures for appealing the imposition of a Federal tax lien. (However, there are several opportunities for appeal prior to demand for payment.)

Seizure of property for the collection of taxes

If a person fails to pay a tax within ten days after notice and demand for payment, the IRS may collect the tax by seizure and sale of the taxpayer's property (levy) (sec. 6331(a) and Treas. Reg. sec. 301.6331-1(a)). If the IRS finds that the collection of tax is in jeopardy, the IRS may collect the tax by levy without waiting the

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[2] The Tax Court is not the only judicial forum in which the taxpayer can contest his or her tax liability. The taxpayer also may contest the liability by paying the tax in full and filing a claim for refund. If the claim is denied, the taxpayer may file a suit for refund in the appropriate Federal district court or the Claims Court. Liability for taxes other than income, estate, gift, and certain excise taxes can be litigated only by refund suits.

[3] In general, the statute of limitations with respect to the collection of tax runs for six years after the assessment of the tax (Code sec. 6502).

usual ten-day period. The IRS is not required to obtain a court order before making a levy.

Property subject to levy includes any property or rights to property, whether real or personal, whether tangible or intangible, belonging to the taxpayer, subject to specific statutory exemptions. Generally, levy may be made only after the individual has been notified in writing of the intent to levy (sec. 6331(d)). This notice must be given in person, left at the dwelling or usual place of business of the individual, or mailed (by certified or registered mail) to the individual's last known address, no less than ten days before the day of levy. The notice requirement, however, does not apply if there has been a finding that the collection of the tax is in jeopardy.

The IRS may instruct the taxpayer's employer to pay to the IRS a portion of the taxpayer's wages. This type of levy on wages is continuous from the time of the levy until the liability out of which the levy arose is satisfied or becomes unenforceable due to lapse of time.

In addition to the employer of the taxpayer, other parties holding the taxpayer's property may be forced to turn it over to the IRS pursuant to a levy. In general, any person in possession of (or obligated with respect to) property or rights to property upon which levy has been made must surrender it upon demand (sec. 6332(a)). Any person who fails to surrender property upon demand becomes personally liable in an amount equal to the lesser of the value of the property or the amount of the tax liability with respect to which the levy was made, plus costs and interest from the date of the levy (sec. 6332(c)). In addition, that person is subject to a penalty equal to 50 percent of the amount for which there is personal liability.[4] A person (other than the taxpayer) who surrenders the property at the Government's demand is discharged from liability to the taxpayer (sec. 6332(d)).

Exemptions from levy

Present law[5] exempts the following from levy:

(1) wearing apparel and school books;

(2) fuel, provisions, furniture, personal household effects, livestock, and poultry, not exceeding $1,500 in value;

(3) books and tools necessary for the trade, business, or profession of the taxpayer, not exceeding $1,000 in aggregate value;

(4) unemployment benefits;

(5) undelivered mail;

(6) certain annuity, pension, and military service disability payments;[6]

(7) amounts payable under workers' compensation laws;

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[4] This penalty is not applicable if a bona fide dispute exists concerning the amount of the property to be surrendered pursuant to a levy or concerning the legal effectiveness of the levy (Treas. Reg. sec. 301.6332-1(d)).

[5] Code sec. 6334 and Treas. Reg. secs. 301.6334-1 and 301.6334-2.

[6] That is, annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll, and annuities based on retired or retainer pay under Chapter 73 of title 10 of the U.S. Code.

(8) so much of the wages, salary, or other income of the taxpayer as is necessary to comply with a prior judgment of a court of competent jurisdiction for support of the taxpayer's minor children; and

(9) a minimum amount of wages, salary, and other income (in general, $75 per week plus $25 per week for each dependent).

III. DESCRIPTION OF THE PROVISIONS OF S. 604 AND S. 579

1. Disclosure of rights and obligations of taxpayers (S. 604 and S. 579)

The bills would require the Treasury Department to prepare a statement of the rights and obligations of taxpayers, which would have to be distributed along with any other forms sent by the IRS to taxpayers. This statement must include a simple, nontechnical description of: (1) the rights and obligations of both the taxpayer and the IRS during an audit; (2) the procedures by which a taxpayer may appeal any adverse decisions of the IRS; (3) the procedures for pursuing refund claims and filing taxpayer complaints; and (4) the procedures that the IRS may use in enforcing the internal revenue laws.

The Treasury statement must be prepared not later than 180 days after the date of enactment. Drafts of the statement must also be distributed to the tax-writing committees of the Congress, and the statement may not be distributed to the public until 90 days after it has been provided to the tax-writing committees.

2. Office of Inspector General (S. 604 and S. 579)

The bills would create an Office of Inspector General in the Department of the Treasury and would transfer to this Inspector General certain internal audit authority currently held by various other offices in the Treasury. This provision would be effective on the date of enactment.

The bills also provide that the Inspector General could not review certain activities. These activities would be the development and exercise of monetary, fiscal, and tax policy and the exercise of legal judgment in the investigation and litigation of cases (other than with regard to efficiency and conformance with Department of the Treasury policy).

3. Procedures involving interviews of taxpayers (S. 604 and S. 579)

The bills would specify several procedural rights of taxpayers who are interviewed by the IRS in connection with the assessment of a deficiency. (Presumably this would include audits, appeals conferences, and related activities.)

First, a taxpayer would be permitted to request that an interview in connection with the assessment of a deficiency be held at a time and place reasonable to both the taxpayer and the IRS employee. Second, the taxpayer would be allowed to make a recording of the interview at his or her own expense. If the IRS employee wishes to make a recording of the interview, he or she must so inform the taxpayer prior to the recording and offer a transcript of this recording to the taxpayer (so long as the taxpayer pays the cost of reproduction). Third, prior to any interview, the IRS employee

would have to inform the taxpayer: (1) that the taxpayer has a right to remain silent; (2) that any statement the taxpayer makes may be used against him; and (3) that the taxpayer has a right to the presence of an attorney, certified public accountant (CPA), enrolled agent, or enrolled actuary. The taxpayer may waive these rights. In addition, if the taxpayer indicates at any time during the interview that he or she wishes to consult an attorney, CPA, enrolled agent, or enrolled actuary, the interview must be discontinued at that point and no further questioning of the taxpayer is permitted.

Further, the bills provide that the IRS would be required to deal directly with the person (such as an attorney or accountant) holding a written power of attorney from the taxpayer. Upon notice to the taxpayer that the holder is responsible for unreasonable delay or hindrance of IRS investigations, the IRS may cease dealing with the holder and then deal with the taxpayer.

These provisions would be effective on the date of enactment.

4. General Accounting Office oversight of the administration of the internal revenue laws (S. 604 and S. 579)

The bills would mandate two types of oversight of the IRS by GAO. First, the bills would give authority to GAO to conduct any special audit or investigation requested by any committee or Member of Congress. Second, the bills would direct the GAO to prepare an annual report on the administration of the internal revenue laws, covering nine specified areas.

The bills also would amend the present-law provision (sec. 6103(i)(7)) that permits the Joint Committee on Taxation, by a two-thirds vote, to disapprove the use of confidential tax return information in an audit by GAO. The bills would provide that the Joint Committee could only recommend disapproval of the use of confidential tax return information to the Congress. The bills would require that the Congress then pass, within 30 days of the recommendation by the Joint Committee, a joint resolution denying GAO access to confidential tax return information. If this resolution is not passed, GAO would be able to obtain access to confidential tax return information.

These provisions would be effective on the date of enactment.

5. Basis for evaluation of IRS employees (S. 604 and S. 579)

The bills would mandate that the evaluation of all IRS personnel by their superiors must not be based in any way on the amounts collected by the IRS as a result of their audit or investigative work. This provision would be effective on date of enactment.

6. Authorizing, requiring, or conducting certain investigations (S. 604 and S. 579)

The bills would provide that Federal employees (including IRS employees) could not authorize, require, or conduct tax-related investigations into or surveillance of the beliefs or associations of any individual or organization; neither could they maintain records derived from such investigations. An exception to this prohibition would be made for organized crime activities. Violators of this prohibition would be subject to fines of not more than $10,000, or im-

prisonment of not more than two years, or both. Violators also would be liable for damages to the individual or organization investigated. This provision would generally be effective on the date of enactment.

7. Levy and seizure (S. 604 and S. 579)

The bills would make several changes to the levy and seizure procedures. These changes would generally be effective for levies made on or after the date of enactment.

First, the bills would increase from 10 days to 30 days the time which must elapse after notice and demand before the IRS could levy on a taxpayer's property. Second, when notice of levy is made, the IRS would be required to provide information to the taxpayer regarding applicable Internal Revenue Code citations and the procedures applicable to the levy, as well as the administrative appeals available to the taxpayer. The bills also would increase the amount of property exempt from levy, allow for changes in the effect of levy pursuant to an agreement between the IRS and taxpayer, and make other changes in the levy procedures.

8. Review of jeopardy levy and assessment (S. 604 and S. 579)

The bills would make the administrative and judicial review procedures that apply under present law to jeopardy assessments also applicable to levies. The bills would also expand administrative redetermination and judicial review of these actions. These provisions would be effective on the date of enactment.

9. Installment payments of tax liability (S. 604 and S. 579)

The bills would authorize the IRS to enter into written agreements with taxpayers to satisfy their tax liability by installment payments if the IRS determines that the agreement would facilitate payment. The bills would require the IRS to make a written offer to enter into an installment payment agreement with taxpayers whose tax liability does not exceed $20,000 and who have not been delinquent under any other installment payment of tax agreement in the recent past. Interest would be charged at the statutory rate on all installment payments.

The bills also provide that these installment payment agreements would be binding, unless the taxpayer provided inaccurate or incomplete information or if the taxpayer's financial conditions change. This provision would be effective on the date of enactment.

10. Limitation on class audits (S. 604 and S. 579)

The bills would permit the IRS to audit taxpayers identified with respect to a particular trade, business, or profession only if certain requirements were met. These requirements are that the IRS must: (1) provide written notice to each member of the audit group as to the item or items of such taxpayers' returns which the group has in common; (2) state the reasons why the IRS claims the returns to be incorrect; and (3) provide an opportunity to file an amended return or to contest the IRS claim either singly or through a group spokesman. If the taxpayer filed an amended return, no interest or penalties would be permitted to be imposed, notwithstanding any

other provision of law. This provision would be effective for audits commenced on or after the date of enactment.

11. Burden of proof in administrative and judicial proceedings (S. 604 and S. 579)

The bills would provide that, notwithstanding any other provision of law, the burden of proof on all issues is on the IRS. This would apply to all administrative and judicial proceedings between the IRS and a taxpayer. However, in the event the taxpayer is the sole possessor of evidence that would not otherwise be available to the IRS, the taxpayer may be required to present the minimum amount of information necessary to support his or her position. This provision would apply with respect to proceedings commenced on or after the date of enactment.

12. Written advice of IRS employees (S. 604)

Under this bill, any deficiency in tax, interest, or penalty asserted against a taxpayer must be abated if it is attributable to written advice given by an IRS employee in response to a specific request of a taxpayer, unless the taxpayer failed to provide full and accurate information. Also, the bill would require IRS employees to inform every taxpayer to whom they give oral advice that the IRS is not bound by oral advice. This provision would be effective on the date of enactment.

13. Taxpayer assistance orders (S. 604)

The bill would grant authority to the Office of Ombudsman to issue taxpayer assistance orders, upon the request of a taxpayer. These orders would require the IRS to take action (or cease action) to assist taxpayers.

The Ombudsman could issue a taxpayer assistance order if the taxpayer is suffering (or is about to suffer) unusual, unnecessary, or irreparable loss due to the administration of the internal revenue laws, due to the failure of IRS employees to carry out any provision of law, or due to a violation of any provision of law by an IRS employee. The Ombudsman could require the IRS to take specific actions, such as to release a levy on property or to cease any current or future action in the collection process. This provision would be effective on the date of enactment.

14. Administrative appeal of liens (S. 604)

The bill would provide for administrative appeals of liens on taxpayers' property or rights to property. The IRS would be required to issue regulations implementing this provision within 180 days of the date of enactment.

15. Minimum sales price (S. 604)

The bill is intended to preclude the IRS from levying on property if the expenses of the levy are greater than the value of either the property or the tax liability.[7] This provision would be effective on the date of enactment.

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[7] A technical correction to the language of the bill as introduced may be necessary to effectuate this intent.

16. Application of the Regulatory Flexibility Act to the IRS (S. 604)

The bill would apply the Regulatory Flexibility Act to all rules and regulations prescribed by the Treasury Department (including the IRS). (The Regulatory Flexibility Act requires that all rules and regulations must be analyzed for their impact on small business.) This provision would apply to any rule or regulation prescribed after the date of enactment.

17. Civil action for deprivation of rights by IRS employees (S. 579)

The bill would create a Federal cause of action under which any person could sue any officer or employee of the IRS who in his or her official capacity deprives that person of rights under the Constitution or laws of the United States. This provision would apply to actions arising on or after the date of enactment.

IV. ISSUES AND ANALYSIS

The proposals in S. 604 and S. 579 present a variety of issues, which can generally be grouped into three categories. The first category includes proposals to protect taxpayers by providing them with increased information. The second category involves the tax collection process. The third category involves reforms of the lien and the levy process. There is considerable overlap among these categories.

Taxpayer protection

The first category involves taxpayer protection. One goal of these provisions appears to be to increase the information available to the taxpayer in his or her dealings with the IRS. Several provisions of one or both bills fall into this category: disclosure of rights and obligations of taxpayers; procedures involving taxpayer interviews; authorizing, requiring, or conducting certain investigations; limitation on class audits; and written advice of IRS employees.

The first two provisions in this category address concerns that ordinary taxpayers may not sufficiently understand their procedural rights in the tax collection process to protect their interests. One issue is the extent to which information the IRS currently provides to taxpayers meets the goals of this provision.

Another proposal precludes any tax-related investigation by the Federal Government (including the IRS) into the beliefs or associations of individuals or organizations. One issue is whether any of the investigations that would be prohibited by the bills could be useful in enforcing the internal revenue laws. Another issue is whether the exception to this prohibition relating to organized crime activities is clearly defined and administratively feasible. Also, it is possible that the organized crime exception is too narrow. It may not be clear, for example, whether the IRS would be prohibited under this provision from investigating drug-dealing organizations.

Another provision would limit the use of class audits. One issue is whether some of these audits may be necessary to determine taxpayer's proper tax liabilities. If they are necessary, this provision could impede the collection of revenues. Another issue is whether taxpayers involved in these audits should receive preferential treatment (such as, for example, the prohibition of the imposition of interest and penalties on these taxpayers in certain circumstances) over other taxpayers involved in other types of audits.

The final proposal in this category, concerning written advice of IRS employees, provides that the party that provides written advice (i.e., the IRS and not the taxpayer) should bear the responsibility for any misadvice given. The IRS currently provides administratively that taxpayers may rely on the written advice given by the IRS in a private letter ruling. The provision in the bills would

codify this administrative rule. One issue is whether this provision of the bills would have any further affect on current practice.

Tax collection and administration process

The second category of proposals involves the tax collection and administration process, most specifically in the area of investigations. Several provisions in one or both bills fall into this category. They are: Office of the Inspector General; GAO oversight of the administration of the internal revenue laws; basis of evaluation of IRS employees; installment payments of tax liability; shifting the burden of proof in administrative and judicial proceedings; taxpayer assistance orders; application of the Regulatory Flexibility Act to the IRS; and civil action for deprivation of rights by IRS employees.

The first two areas in this category would establish additional oversight mechanisms, which may be more efficient or responsive to Congressional inquiries. One issue is whether the establishment of these new investigatory requirements would promote greater efficiency in IRS operations without undue cost or complexity.

Other proposals attempt to establish control over potentially overzealous IRS employees. It is argued that collection of money by the IRS without regard for the rights of taxpayers may erode confidence in the tax system and cause taxpayer dissatisfaction and chronic noncompliance. One issue presented by the employee evaluation proposal is whether IRS employees perceive that large collections have greater positive effects on their careers than any negative effects resulting from violations of taxpayers' rights.

An issue raised by the imposition of civil liability on individual IRS employees is whether doing so could have a chilling effect on the lawful performance of their duties, could subject them to harassment lawsuits, or could harm IRS employee recruitment.

One provision authorizes (and in certain instances, mandates) that the IRS enter into installment payment agreements with taxpayers. One issue is the effect of this provision on Federal revenues. Although the bills require that taxpayers pay interest on these installment payments, the provision might nonetheless decrease Federal revenues due to increased collection difficulties.

The mandatory installment payment provision raises several other issues. One is the effect of this provision on taxpayers' perceptions of the fairness of the income tax laws. For example, requiring the IRS to enter into installment payment agreements with taxpayers who negligently or fraudulently understate their income could negatively affect taxpayers' perceptions of the fairness of this provision. Another factor affecting taxpayers' perceptions could be the types of taxpayers most likely to be eligible for the mandatory installment payment provision. Most taxpayers earn wages, from which income taxes are withheld by their employers. Generally, income tax withholding from wages closely approximates (or exceeds) ultimate income tax liability. Consequently, a comparatively small portion of wage earners owe taxes when they file their returns. A much higher proportion of taxpayers making estimated tax payments owe taxes when they file their tax returns. Thus, taxpayers with substantial amounts of non-wage income would be much more likely to be eligible to utilize this provision than tax-

payers with mostly wage income. This could affect taxpayers' perceptions of the fairness of this provision.

Another provision would shift the burden of proof on all issues to the Government in all administrative and judicial proceedings between the IRS and the taxpayer, thereby completely reversing the present relative position of the parties in tax cases. One issue is the effect this change in the burden of proof would have in altering the nature or increasing the complexity of administrative and judicial proceedings. Another issue is the effect of this provision on Federal revenues. For example, this provision could decrease Federal revenues if it impaired the ability of the IRS to deal with taxpayers who take positions that may not be supported by the law.

Another provision would apply the Regulatory Flexibility Act to the IRS. This provision would require analysis of all IRS rules and regulations as to their possible impact on small business. One issue is the extent to which the interests of taxpayers such as small businesses may already be adequately safeguarded in the rulemaking process. Another issue is the extent to which this might impede the process of issuing guidance to taxpayers. Another issue is whether it is appropriate to consider the impact of a regulation upon only one category of taxpayers.

The provision relating to taxpayer assistance orders would establish a system for relief in individual cases, to be ordered by the Office of the Taxpayer Ombudsman. One issue is the extent to which current remedies and programs, such as the Problems Resolution Program, already fill this need.

Tax lien and levy process

The third category involves reforms of the tax lien and levy process. These provisions generally add to the notice, appeal, and exemption rights of taxpayers. The provisions falling in this category are levy and seizure, administrative appeal of liens, minimum sales price, and review of jeopardy levy and assessment. One issue is whether the benefits to taxpayers of these provisions outweigh the added administrative burden they entail. A further issue is whether these provisions could impede the collection of revenues. A further issue is the extent to which permitting administrative appeals of liens may duplicate any already existing appeals rights of taxpayers.

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